IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 7TH NOVEMBER 2007 / 16TH KARTHIKA 1929

Crl.Rev.Pet.No. 497 of 2000()

CRA.293/1998 of SESSIONS COURT, THRISSUR
CC.874/1996 of JUDL. MAGISTRATE OF FIRST CLASS COURT, WADAKKANCHERY

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REVN. PETITIONER: APPELLANT:ACCUSED:

SAROJINI,
W/O.MOHANAN,
KANJIRACODE VILLAGE,
KANJIRACODE DESOM,
TALAPPILLY TALUK,
THRISSUR DISTRICT.

BY ADV. SRI.P.VIJAYA BHANU
SMT.MINI JOHN PAREMALIL

RESPONDENT:RESPONDENT:COMPLAINANT:

STATE OF KERALA, REPRESENTED
BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. C.K. SURESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 07/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KSS

ORDER ON C.M.P.NO.2771/2000 IN CRL.R.P.NO.497/2000

DISMISSED

7/11/2007 **SD/- K.R.UDAYABHANU, JUDGE**

/TRUE COPY/

P.A.TO JUDGE

Kss

K.R.UDAYABHANU, J

Crl.R.P.No.497 of 2000

Dated this the 7th day of November, 2007

O R D E R

The revision petitioner is the accused in C.C.No.874/96 in the file of Judicial First Class Magistrate Court, Wadakkanchery who stands convicted for the offence under Section 55(a) of the Abkari Act and sentenced, as modified by the appellate court, to undergo simple imprisonment for one month and to pay a fine of Rs.25,000/- and in default, to undergo simple imprisonment for three months.

2. The prosecution case is that on 15.7.1996 at about 4.05 p.m. in the foot path on the northern side of the house of one Sarojini, the accused, was found carrying one liter of illicit arrack in a 2.5 litres capacity plastic container.

3. The evidence adduced in the matter consisted of the testimony of PWs' 1 to 4, Exts. P1 to P3 and MOI. The defence examined DW1.

4. PWs' 2 and 3, the independent witnesses, did not support the prosecution version. PW1, the preventive officer,

and PW4, the Excise Inspector, who detected the offence has testified as to the fact that the accused turned back on sighting the Excise party and they stopped her and examined the contents of plastic container and detected liquor. Sample was taken at the spot which when examined at the analysis laboratory was found to contain ethyl alcohol. They have proved Exts. P1 to P3 that includes the seizure mahazar and certificates of chemical analysis. MO1 has identified PWs' 1 and 4. I find that the version of PWs' 1 and 4 stands not discredited. In the circumstances, there is no reason to deviate from the findings of the court below. The same is concerned.

5. The counsel for the revision petitioner has pleaded for modification of the sentence stressing the fact that the revision petitioner is a lady and that more than 10 years have elapsed since the date of the occurrence and so far the accused was facing the criminal proceedings. In the circumstances and considering the fact of the small quantity involved, the sentence is liable to be modified. The sentence is modified to imprisonment till the rising of the court and to pay fine of Rs.25,000/- and in default, to undergo simple imprisonment for

three months. The revision petitioner is granted three months' time to remit the fine amount. She shall appear before the court below on 7.2.2008 to receive sentence.

The criminal revision petition is disposed of accordingly.

K.R.UDAYABHANU,
JUDGE

csl